

Section 4.66 Reasonable Accommodations

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All executive branch supervisors must follow the procedures outlined below when determining the need for reasonable accommodations under the [Americans with Disabilities Act](#) (ADA) and the [Americans with Disabilities Act Amendments Act of 2008](#). For more information, see "[The ADA: Your Responsibilities as an Employer](#)" website.

Disability Definition

The term disability means, with respect to an individual:

- a physical or mental impairment that substantially limits one or more major life activities of such individual;
- a record of such an impairment; or
- being regarded as having such an impairment.

To be protected under the ADA, an applicant/employee must have, have a record of, or be regarded as having a substantial, as opposed to a minor, impairment. A substantial impairment is one that significantly limits or restricts a major life activity such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, or working. A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, or digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

In order to be protected by the ADA, an individual with a disability must also be qualified to perform the essential functions of the job, with or without reasonable accommodation. The applicant or employee must satisfy the requirements for the job (such as education, employment experience, skills, licenses, or any other qualification standards that are job-related) and be able to perform the essential functions of the job, with or without reasonable accommodation.

Identify Essential Functions of the Position

The basic job duties an employee must be able to perform, with or without reasonable accommodation, are called "essential functions." Each job should be examined to determine the essential functions or tasks.

Factors in determining whether a function is essential:

- Does the position exist to perform the function?
- How many employees are available to do this function? Is the function essential because there are a limited number of employees available among whom it can be distributed?
- Is the function highly specialized or does it require special expertise?

Supervisors must complete a Position Description Questionnaire with essential functions identified before advertising or interviewing any applicant.

The federal Equal Employment Opportunity Commission will consider the following as evidence that a function is essential:

- The employer's judgment
- A written job description prepared prior to advertising or interviewing applicants
- The amount of time spent on that function
- The consequences of the function not being performed
- Terms of a collective bargaining agreement

- Work experience of past employees in the position
- Current work experience of employees in similar jobs

Applicant Requests for Accommodations

All interviews must primarily be based on determining the candidate best qualified to perform essential functions.

Ask all applicants, **"Are you able to perform the essential functions of this position?"**

It is against the law to ask an applicant whether they are disabled or about the nature or severity of a disability, or to require the applicant to take a medical examination before making a job offer.

If the applicant indicates that he/she cannot perform an essential function or that he/she may need an accommodation, the supervisor may then ask if there is a reasonable accommodation that the applicant is familiar with that might allow him/her to perform that essential function. A supervisor should ask, **"Are there any reasonable accommodations we might consider that will enable you to perform the essential functions of this job?"** Reasonable accommodations are required if the applicant has a disability as defined by the ADA.

If the applicant is not familiar with a reasonable accommodation, or if the supervisor wants other assistance in identifying reasonable accommodations for that applicant, there are a variety of resources available to assist in this process.

It may be necessary to request specific, relevant medical documentation if a person indicates a need for a reasonable accommodation.

Employee Requests for Accommodations

The rights of employees in relation to the provision of reasonable accommodations are the same as for applicants. Applicants, as well as employees, must first meet the definition of a disability under the ADA.

The supervisor must be prepared to discuss essential job functions with employees.

If an essential function cannot be performed, the supervisor must then discuss the possible provision of reasonable accommodations that might enable the employee to perform the essential function.

The supervisor must ensure that the Request for Reasonable Accommodation form ([CFN 552-0574](#)) is completed for all employee requests.

It may be necessary to request specific and relevant medical documentation to justify the need for an accommodation for a person with a disability.

Resources for Providing Accommodation Assistance

A partial list of resources includes:

- The Iowa Department for the Blind can provide assistance when dealing with sight-related disabilities (515-281-1335, 1-800-362-2587, TTY 515-281-1355).
- Iowa Vocational Rehabilitation Services can provide consultation on work site modifications, adaptive equipment, and other information related to accommodations (515-281-3043, Voice/TTY 1-800-532-1486).
- The Office of Persons with Disabilities in the Iowa Department of Human Rights can provide assistance in several areas related to persons with disabilities (Voice/TTY 1-888-219-0471).

- The Office of Deaf Services in the Iowa Department of Human Rights can provide assistance related to hearing disabilities (Voice/TTY 515-281-3164).
- The Governor's Planning Council for Developmental Disabilities of the Iowa Department of Human Services can provide assistance when dealing with developmental disabilities (515-281-7839, TTY 281-4355).
- The Employment Bureau of the Iowa Department of Administrative Services – Human Resources Enterprise can assist with the reasonable accommodation process (515-281-6889, TTY 515-281-7825).
- The Iowa Program for Assistive Technology can provide assistance related to technology that will be useful in providing accommodations (Voice/TTY 1-800-331-3027).
- The Job Accommodation Network (JAN) (1-800-526-7234, TTY 1-877-781-9403) is a service of the President's Committee on Employment of People with Disabilities. This service provides suggestions for accommodations at no charge. <http://askjan.org/>

What is a "Reasonable Accommodation?"

ADA regulations define a reasonable accommodation as:

- Modifications or adjustments to a job application process that enable a qualified applicant or employee with a disability to be considered for a position they desire.
- Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position.
- Modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

Examples: Modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; adjustments of exams, training materials, or policies; using readers or interpreters; making facilities accessible; or restructuring job duties.

When are Accommodations Not Reasonable?

When an accommodation requires *significant* difficulty or expense it *may* be unreasonable if it causes an "undue hardship" on the employer. Undue hardship arguments against providing an accommodation involve a balancing test that weighs the following factors based on the Americans with Disabilities Act:

- The nature and cost of the accommodation
- The financial resources of the organization
- The number of employees at the location
- The impact of the accommodation on the operation of the organization
- The type of operation, including the composition, structure, and functions of the work force

If a certain accommodation would be an undue hardship, the employer must attempt to identify a different accommodation that would not pose such a hardship. If the undue hardship is because of cost, the employer should consider whether funding for the accommodation could come from an outside source. The applicant or employee with a disability must also be given the opportunity to provide the accommodation or pay for the portion of the accommodation that constitutes an undue hardship.

The ADA also recognizes a "direct threat" or safety exception. Where an employer can prove that an individual with a disability poses a direct threat to the health and safety of himself, other employees, or clients, the employer can refuse to employ that individual on the grounds that an accommodation would be ineffectual. This determination must be made on a case by case basis.

Such a defense must be based on a high probability of substantial harm, not speculation or a remote risk. Only objective, factual evidence will support this defense. The specific behavior on the part of the individual involved that causes the direct threat must be identified. Factors to consider in evaluating the threat include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The imminence of the potential harm

The employer must also consider whether the risk can be eliminated or reduced to an acceptable level with a reasonable accommodation.

Instructions for Completing a Request for Reasonable Accommodation

The Request for Reasonable Accommodation form ([CFN 552-0574](#)) is to be completed by an agency considering hiring a person with a disability who requires an accommodation to perform one or more essential functions of a specific position.

This form must be completed for those applicants receiving consideration in a final group of applicants who are considered to be substantially equally qualified for the position. The form must be completed before an offer to hire is made.

The purpose of this form is to provide agencies with a means to document the decisions they have made in relation to providing accommodations to persons with a disability. This documentation must be retained in agency files to ensure that the agencies have complied with requirements of the Americans with Disabilities Act.

It is the responsibility of the supervisor to make sure Sections A, B, and C of the Request for Reasonable Accommodation form are completed. Section A is to be completed and signed by the applicant or employee. Section B must be completed by the supervisor conducting the interview or the discussion with the employee. Section C must be completed by an appropriate health care or rehabilitation professional. Appropriate professionals include, but are not limited to, doctors (including psychiatrists), psychologists, nurses, physical therapists, occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals. Section D must be completed by the appropriate Appointing Authority for the agency.

One copy of the completed form must be given to the applicant or employee involved.

Where appropriate, supporting documentation such as reports from appropriate medical personnel should be attached.

The Request for Reasonable Accommodation form, related correspondence, and medical information about an individual's disability must be maintained in confidential files that are kept separate from the personnel file.